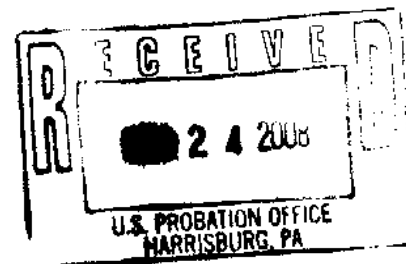


TO: UNITED STATES PROBATION DEPARTMENT
MIDDLE DISTRICT OF PENNSYLVANIA

REPLY TO: ERIC SANCHEZ
REGISTER NO. 10667-067
FEDERAL MEDICAL CENTER
P.O. BOX 879
AYER, MASSACHUSETTS 01432

RE: UNITED STATES v. ERIC SANCHEZ
CRIMINAL NO. 1:00-CR-0300-02



DATE: MARCH 17, 2008

Your office recently prepared an addendum to the presentence report previously prepared in connection with the above referenced criminal matter. The recent addendum was prepared in connection with the undersigned's recent motion to modify his sentence in this case. Inasmuch as the undersigned disagrees with the position taken in your recent submission to the Court, he respectfully submits this memorandum and requests that your office revisit the matter.

**I. THE GUILTY PLEA IN THIS CASE DID NOT
TRIGGER A TEN YEAR MANDATORY MINIMUM
TERM OF IMPRISONMENT.**

Your office concluded that the undersigned entered a plea of guilty to an offense that triggered a ten year mandatory minimum term of imprisonment, received a sentence at the mandatory minimum term, and is therefore not entitled to [or eligible for] relief from the sentence under 18 U.S.C. §3582(c)(2). However, your office ignored the fact that the undersigned did not, as the law requires, admit to facts which trigger the application of the mandatory minimum term of imprisonment, and that no mandatory minimum term therefore restricts the district court from modifying the term of imprisonment as requested in the undersigned's pro se submission dated January 7, 2008.

Your attention is called to the holding in Apprendi v. New Jersey, 530 U.S. 466 (2000), wherein the U.S. Supreme Court held that a sentencing court is without authority to impose any sentence based on facts neither admitted to nor proven beyond a reasonable doubt. 530 U.S. at 490. In the present case, before a ten year mandatory minimum term of imprisonment could be triggered, a defendant must admit [in the case of a guilty plea] that the offense involved at least 50 grams of cocaine base. See, e.g., United States v. Yu, 285 F.3d 192, 198 (2nd Cir. 2002)(vacating sentence where defendant did not admit to amount of drugs triggering enhanced mandatory minimum or maximum term under 21 U.S.C. §841(a)(1)(A)).; see also United States v. Vasquez, 271 F.3d 93 (3rd Cir. 2001)(requiring proof of drug quantity to trigger enhanced statutory penalties).

[2]

During the change of plea hearing in this case, the undersigned admitted only that the offense involved between 35 to 50 grams of cocaine base. Notably, the Government stipulated that the amount of cocaine base involved [for plea purposes] was between 35 and 50 grams. However, the undersigned did not admit that the quantity involved was "50 grams or more." Moreover, the plea transcripts conclusively establishes that the amount involved in the guilty plea was consistent with §2D1.1(c)(5) of the U.S. Sentencing Guidelines ("more than 35 but less than 50 grams" of cocaine base).


Given the specifics underlying the guilty plea in this case, a finding that the ten year mandatory minimum provision of 21 U.S.C. §841(a)(1)(A) applied would be wholly inconsistent with the holdings in Apprendi, Yu, and Vasquez, *supra*.

Accordingly, the undersigned respectfully requests that your office issue an addendum that both respects the holdings of the U.S. Supreme Court and the Third Circuit, and is consistent with the facts of these proceedings.

II. CONCLUSION.

For the foregoing reasons, an addendum to the presentence report should be prepared, consistent with the foregoing.

Respectfully submitted,



Eric Sanchez

cc: Hon. Sylvia H. Rambo, U.S. District Judge
Martin C. Carlson, Acting U.S. Attorney

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